

Removal or remove. The removal of tobacco products from the factory or release from Customs custody, including the smuggling or other unlawful importation of such articles into the United States.

Tobacco products. Cigars, cigarettes, smokeless tobacco, and pipe tobacco. The term does not include smoking tobacco that is not suitable for use or likely to be offered to, or purchased by consumers, as tobacco to be smoked in a pipe.

U.S.C. The United States Code.

[T.D. 6573, 26 FR 8202, Aug. 31, 1961, as amended by T.D. 6871, 31 FR 60, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 296.163, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 296.164 Authority of ATF officers to enter premises.

Any ATF officer may enter in the daytime any premises where tobacco products are kept or stored, so far as it may be necessary for the purpose of examining such products. When such premises are open at night, any ATF officer may enter them, while so open, in the performance of his official duties. The owner of such premises, or person having the superintendence of the same, who refuses to admit any ATF officer or permit him to examine such products shall be liable to the penalties prescribed by law for the offense. Operators of vending machines shall make the tobacco products in their machines available for inspection upon the request of any ATF officer.

(68A Stat. 872, 903; 26 U.S.C. 7342, 7606)

[T.D. 6871, 31 FR 60, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28092, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 296.165 Interference with administration.

Whoever, corruptly or by force or threats of force, endeavors to hinder or obstruct the administration of this subpart, or endeavors to intimidate or impede any ATF officer acting in his official capacity, or forcibly rescues or attempts to rescue or causes to be rescued any property, after it has been duly seized for forfeiture to the United

States in connection with a violation of the internal revenue laws, shall be liable to the penalties prescribed by law.

(68A Stat. 855; 26 U.S.C. 7212)

§ 296.166 Dealing in tobacco products.

All tobacco products purchased, received, possessed, offered for sale, sold or otherwise disposed of, by any dealer must be in proper packages which bear the mark and notice as prescribed in parts 270 and 275 of this chapter. Tobacco products may be sold, or offered for sale, at retail from such packages, provided the products remain in the packages until removed by the customer or in the presence of the customer. Where a vending machine is used, tobacco products must similarly be vended in proper packages or directly from such packages.

(72 Stat. 1424; 26 U.S.C. 5751)

[T.D. 6871, 31 FR 60, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28092, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 296.167 Liability to tax.

Any dealer who, with intent to defraud the United States, possesses tobacco products (a) upon which the tax has not been paid or determined in the manner and at the time prescribed in parts 270 and 275 of this chapter or (b) which, after removal without payment of tax pursuant to section 5704, I.R.C., and regulations issued thereunder, have been diverted from the applicable purpose or use specified in that section or (c) which are not put up in packages prescribed in parts 270 and 275 of this chapter or are put up in packages not bearing the marks and notices prescribed in such regulations shall be liable for a tax equal to the tax on such products.

(72 Stat. 1424; 26 U.S.C. 5751)

[T.D. 6871, 31 FR 60, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28092, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 296.168 Liability to penalties and forfeitures.

Any dealer who fails to comply with the provisions of this subpart becomes

liable to the civil and criminal penalties, and forfeitures, provided by law.
(72 Stat. 1425, 1426; 26 U.S.C. 5761, 5762, and 5763)

Subpart H [Reserved]

Subpart I—Floor Stocks Tax on Cigarettes Held for Sale on January 1, 1991 and on January 1, 1993

AUTHORITY: Section 11202, Public Law 101-508, 104 Stat. 1388, unless otherwise noted.

SOURCE: T.D. ATF-307, 55 FR 52746, Dec. 21, 1990, unless otherwise noted.

§ 296.191 Scope of subpart.

The regulations in this subpart relate to the floor stocks tax imposed by Public Law 101-508, 104 Stat. 1388 on cigarettes held for sale on January 1, 1991, and January 1, 1993, respectively.

§ 296.192 Meaning of terms.

When used in this subpart, terms shall have the meaning prescribed below:

(a) *ATF Officer*. An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

(b) *Controlled Group*. Pursuant to 26 U.S.C. 5061(e)(3), the term "controlled group" means a controlled group of corporations, as defined in 26 U.S.C. 1563, and implementing regulations in 26 CFR 1.1563-1 through 1.1563-4, except that the words "at least 80 percent" shall be replaced by the words "more than 50 percent" in each place they appear in subsection (a) of 26 U.S.C. 1563, as well as in the implementing regulations. Controlled groups of corporations include, but are not limited to:

(1) Parent-subsidiary controlled groups as defined in 26 CFR 1.1563-1(a)(2).

(2) Brother-sister controlled groups as defined in 26 CFR 1.1563-1(a)(3).

(3) Combined groups as defined in 26 CFR 1.1563-1(a)(4). Also, the rules for a controlled group of corporations apply in a similar fashion to groups which include partnerships and/or sole proprietorships. If one entity maintains more than 50% control over a group con-

sisting of corporations and one, or more, partnerships and/or sole proprietorships, all are members of a controlled group.

(c) *Foreign-trade zone*. A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

(d) *Person*. This term includes an individual, a trust, estate, partnership, association, company, or corporation. It also includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(e) *Regional Director (Compliance)*. The principal regional official responsible for administering regulations in this part.

(f) *Tax-increase dates*. As specified in Public Law 101-508, 104 Stat. 1388, the tax-increase dates for purposes of imposition of the floor stocks tax on cigarettes are January 1, 1991, and January 1, 1993.

§ 296.193 Alternate methods or procedures.

The Director may approve alternate methods or procedures, subject to stated conditions, where the Director finds that there is good cause for use of the alternate method or procedure, the alternate method or procedure is within the purpose of, and consistent with the effect intended by, the prescribed method or procedure, and affords equivalent security to the revenue, and the alternate method or procedure is not contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this subpart. No alternate method or procedure relating to the assessment, payment or collection of tax, shall be authorized under this paragraph. A proprietor who wishes to use an alternate method or procedure shall submit a written application to the regional director (compliance) for transmittal to the Director. The application should describe the alternate method or procedure and the reasons for its use. The proprietor may not use an alternate method until the application has been approved by the Director. The Director may withdraw approval for any alternate method or procedure if the revenue is jeopardized